

FILED

NOV 02 2021

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

v.

MORRIS SUTTON,

Defendant.

No. 3:21-cr- 138
Judges Crytzer / Poplin

Filed:

Violation: 15 U.S.C. § 1

INFORMATION

The United States of America, acting through its attorneys, charges that, at all times relevant to the Information:

I.

DESCRIPTION OF THE OFFENSE

1. Morris Sutton is hereby made a defendant on the charge contained in this Information.
2. Beginning in at least November 2017 and continuing until on or about October 29, 2019, the exact dates being unknown to the United States, in the Eastern District of Tennessee and elsewhere, the defendant and his co-conspirators—other persons and entities engaged in the sales and distribution of video media contained on digital video discs and Blu-Ray discs (hereinafter, collectively, “DVDs and Blu-Ray Discs”) through the Amazon Marketplace platform—knowingly entered into and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States. The combination and conspiracy engaged in by the defendant and co-conspirators was a *per se*

unlawful, and thus unreasonable, restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to fix, maintain prices, and coordinate price increases of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States.

II.

MEANS AND METHODS OF THE CONSPIRACY

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and co-conspirators did those things that they combined and conspired to do, including, among other things:

- a. engaged in at least one discussion with a co-conspirator in which the defendant, located outside of the Eastern District of Tennessee, requested that the storefront operated by David Camp (*see* No. 3:21-cr-83, E.D. Tenn.), located in Sweetwater, Tennessee, raise its prices on DVDs and Blu-Ray Discs;
- b. agreed during those discussions to suppress competition by raising and maintaining particular pricing for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States;
- c. agreed during those discussions to monitor and exchange pricing with one another and others in order to implement and enforce this agreement;
- d. agreed during those discussions to establish floor pricing for DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers

located throughout the United States;

e. monitored current pricing of DVDs and Blu-Ray Discs offered by sellers on the Amazon Marketplace platform to customers located throughout the United States;

f. communicated with one another through the use of interstate wire transmissions including email, text message, and phone calls;

g. sold DVDs and Blu-Ray Discs through the Amazon Marketplace platform within the United States at collusive and noncompetitive prices; and

h. accepted payment for sales of DVDs and Blu-Ray Discs sold through the Amazon Marketplace platform to customers located throughout the United States at collusive and noncompetitive prices.

III.

BACKGROUND

5. DVDs and Blu-Ray Discs are forms of optical disc storage that are sold on the Amazon Marketplace platform. The Amazon Marketplace platform is an e-commerce platform owned and operated by Amazon.com, Inc. ("Amazon") in the United States that enables third-party vendors to list their products and pricing in order to compete with one another and, at times, with Amazon for the sale of new or used products to customers on Amazon's website. The Amazon Marketplace platform is itself a component of the Amazon.com website.

IV.

DEFENDANT AND CO-CONSPIRATORS

6. During the period covered by this Information, Morris Sutton operated a virtual storefront on the Amazon Marketplace platform with a business address located in Deal, New Jersey, and was responsible for establishing the storefront's pricing. During the period covered

by this Information, the defendant was a distributor or seller of DVDs and Blu-Ray Discs and sold DVDs and Blu-Ray Discs on the Amazon Marketplace platform through the defendant's virtual storefront.

7. Various corporations and individuals, not made defendants in this Information, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

8. Whenever in this Information reference is made to any act, deed or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through his officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control or transaction of his business or affairs.

V.

TRADE AND COMMERCE

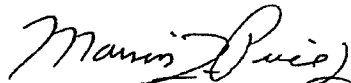
9. During the period covered by this Information, the defendant and his co-conspirators delivered DVDs and Blu-Ray Discs from locations around the United States, throughout the United States for further distribution to purchasers located throughout the United States. At least one co-conspirator delivered DVDs and Blu-Ray Discs from within the Eastern District of Tennessee to Amazon locations.

10. During the period covered by this Information, the business activities of the defendant and his co-conspirators in connection with the sale of DVDs and Blu-Ray Discs through the Amazon Marketplace platform to customers located throughout the United States that are the subject of this Information were within the flow of, and substantially affected, interstate commerce.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.



RICHARD A. POWERS
Acting Assistant Attorney General



MARVIN N. PRICE JR.
Director of Criminal Enforcement



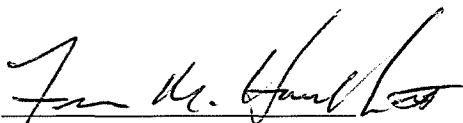
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